

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY AC B.C.

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RONALD M. BOWMAN,

Plaintiff,

v.

SHELBY COUNTY, et al.,

Defendants.

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No. 03-2456 M1/An

THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
W/D OF TN, MEMPHIS

ORDER OF DISMISSAL

Before the Court is the Motion to Dismiss for Failure to Comply with Rules and the Court's Order and Failure to Prosecute of Defendants Correctional Medical Services, Inc., Stipanuk, and Shoemaker, filed July 18, 2005, and the Motion of Defendants Shelby County and Blanchard to Dismiss Pursuant to Rule 41, filed July 25, 2005. On December 22, 2003, the Court issued an order requiring Plaintiff to "promptly notify the Clerk of any change of address or whereabouts." (Order, Dec. 22, 2003, (Docket No. 10), at 13.) In addition, that order provided that "[f]ailure to comply with these requirements, or any other order of the Court, may result in this case being dismissed without further notice." (Id.)

On approximately July 11, 2005, counsel for Defendants Correctional Medical Services, Inc., Stipanuk, and Shoemaker received mail that was previously sent to Plaintiff at the

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address Plaintiff provided to the Court. (Aff. of Stephen G. Smith, attached as Ex. 2 to Mem. in Supp. of Mot. to Dismiss for Fail. to Comply with Rules and the Court's Order and Fail. to Prosec. of Defs.' Corr. Med. Servs., Inc., Stipanuk, and Shoemaker.) These documents were mailed to Plaintiff on June 27, 2005, and July 1, 2005, respectively. (Id.) After calling the phone number Plaintiff provided to counsel and the Court, counsel was told by a receptionist answering the phone that Plaintiff had not resided at that address since approximately June 19, 2005. (Id.) Counsel states that Plaintiff has failed to provide counsel with his current address, make timely expert disclosures, and attend his noticed deposition in June of 2005.<sup>1</sup> (Id.) The record reflects that Plaintiff has not notified the Clerk of his current address.

All of the Defendants move to dismiss pursuant to Federal Rule of Civil Procedure 41(b). Rule 41(b) provides:

For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against

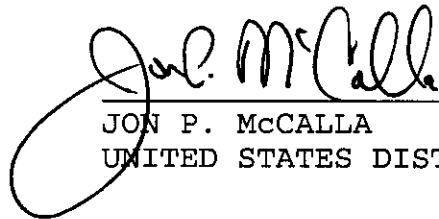
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<sup>1</sup> Defendants Shelby County and Blanchard adopt and rely on the motion to dismiss of Defendants Correctional Medical Services, Inc., Stipanuk, and Shoemaker. In addition, Defendants Shelby County and Blanchard state that on July 12, 2005, their Motion for Summary Judgment as to Supplemental Complaint was filed with the Court and mailed to Plaintiff at the address he provided to the parties and the Court. On July 21, 2005, Defendants state an envelope containing that motion was returned with a stamp "Return to Sender Attempted Not Known." (Unmarked Ex. To Mot. of Defs.' Shelby Cty. and Blanchard to Dismiss Pursuant to R. 41.) Defendants Shelby County and Blanchard also state that Plaintiff has failed on two occasions to attend his deposition.

the defendant. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

Fed. R. Civ. P. 41(b). Plaintiff has failed to comply with the requirements of the Court's December 22, 2003, order, as he has not notified the Clerk of his current address. In addition, Plaintiff's has neither made timely expert disclosures nor attended his noticed deposition. Accordingly, pursuant to Rule 41(b), this case is DISMISSED.

So ORDERED this 4 day of August, 2005.

  
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JON P. McCALLA  
UNITED STATES DISTRICT JUDGE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 155 in case 2:03-CV-02456 was distributed by fax, mail, or direct printing on August 4, 2005 to the parties listed.

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Debra L. Fessenden  
SHELBY COUNTY ATTORNEY'S OFFICE  
160 N. Main Street  
Ste. 660  
Memphis, TN 38103

Jerry O. Potter  
THE HARDISON LAW FIRM  
119 S. Main St.  
Ste. 300  
Memphis, TN 38103

Stephen G. Smith  
THE HARDISON LAW FIRM  
119 S. Main St.  
Ste. 300  
Memphis, TN 38103

Ronald M. Bowman  
3375 WINBROOKS  
Memphis, TN 38116

Honorable Jon McCalla  
US DISTRICT COURT